



2026:DHC:438



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment Reserved on: 12.01.2026
Judgment pronounced on: 19.01.2026

+ CRL.A. 133/2021 & CRL.M.(BAIL) 663/2024

KAJAL

.....Appellant

Through: Mr. Ajay Verma, Ms. Smriti S. Nair
and Ms. Sneha Sejwal, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for the
State.

SI Raghuraj Singh P.S.Sangam Vihar.
Mr. Anuj P. Agarwala, Advocate
(Amicus Curiae) with Mr. Vipul
Singh, Advocate for Victim.

+ CRL.A. 141/2021

GANGA SINGH

.....Appellant

Through: Mr. B. Badrinath (DHCLSC) with
Mr. Dhruv Bhardwaj, Advocate.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for the
State.

SI Raghuraj Singh P.S. Sangam Vihar
Mr. Anuj P. Agarwala, Advocate
(Amicus Curiae) with Mr. Vipul



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Singh, Advocate for Victim.

+ CRL.A. 167/2021
PUMPY GUTPA

.....Appellant

Through: Mr. Ajay Verma, Ms. Smriti S. Nair
and Ms. Sneha Sejwal, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Pradeep Gahalot, APP for the
State.

SI Raghuraj Singh, P.S.Sangam Vihar
Mr. Anuj P. Agarwala, Advocate
(Amicus Curiae) with Mr. Vipul
Singh, Advocate for Victim.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In these appeals filed under 374(2) of the Code of Criminal Procedure, 1973, the appellants/accused in SC No. 6605 of 2016 on the file of the Additional Sessions Judge-04 (Protection of Children from Sexual Offences Act, 2012), South District, Saket Courts, Delhi, assail the judgment dated 28.11.2020. By the said judgment, accused no. 1 has been convicted and sentenced for the



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offence punishable under Section 370 of the Indian Penal Code, 1860 (the IPC). Accused no. 2 has been convicted and sentenced for the offences punishable under Sections 323 and 370 IPC, and accused no. 3 has been convicted and sentenced for the offences punishable under Sections 376(2)(i), 323, 370A IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (the PoCSO Act).

2. The prosecution case is that on 13.08.2013, PW-1 aged about 14 years was kidnapped from village Naamkhana, District South 24, Pargana, West Bengal by Dalip, (absconding) along with accused no.1 and accused no. 2 (A-1 and A-2) in furtherance of their common intention for the purpose of trafficking and thereafter she was wrongfully confined by Dalip, A-1 and A-2 in the house of the latter, where she was beaten up and thereafter sold to accused no. 3 (A-3). PW-1 was then forcibly married off to A-3, who thereafter repeatedly raped her. PW-1 was beaten up whenever she resisted. Hence, the accused persons are alleged to



have committed the offences punishable under Sections 323, 346, 354A, 363, 366, 370, 370A, 376 read with Section 34 IPC as well as Section 6 of the PoCSO Act.

3. Based on Exhibit PW-3/B FIS of PW-1, crime no.39/2014 Sangam Vihar Police Station, that is, Exhibit PW-3/A FIR, was registered by PW-19, Woman Sub Inspector (WSI). PW-19 conducted investigation into the crime and on completion of the same, submitted the chargesheet/final report before the Court on 07.02.2014, alleging the commission of the offences punishable under the aforementioned Sections.

4. When the accused persons were produced before the trial court, all the copies of the prosecution records were furnished to them as contemplated under Section 207 Cr.PC. After hearing both sides, the trial court as per order dated 02.06.2014, framed a charge under Sections 323, 346, 366, 370, 370A, 354A IPC against A-1 and A-2, and under Sections 323, 346, 366, 370, 370A, 354A and 376 IPC and Section 6 of the PoCSO Act against A- 3, which



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was read over and explained to the accused persons, to which they pleaded not guilty.

5. On behalf of the prosecution, PWs.1 to 19 were examined and Exts. PW3/A-B, PW4/A-B, PW4/D, PW4/F, PW6/A, PW7/A, PW10/A-B, PW11/A, PW 12/A, PW14/A, PW15/DX, PW17/A-B, PW18/A-B, PW19/A-I and Mark C-R were marked in support of the case.

6. After the close of the prosecution evidence, the accused persons were questioned that Section 313 of the Code of Criminal Procedure, 1973 (the Cr.P.C.) regarding the incriminating circumstances appearing against them in the evidence of the prosecution. The accused persons denied all those circumstances and maintained their innocence. A-1 submitted that he does not know PW-1 or A-3. Dalip (absconding accused) is an acquaintance, as both of them are auto-rickshaw drivers and they used to park their autos at the same place. One day, Dalip invited him and his wife to attend the marriage of the former's sister at



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Kalkaji Mandir. They attended the wedding. Thereafter, he has only seen Dalip's sister once in the Court.

6.1. A-2, the wife of A-1, submitted that Dalip, an acquaintance of her husband, came to her house to invite them to the former's sister's wedding at Kalkaji Mandir. She has never seen his sister thereafter.

6.2. A-3 submitted that A-1 was known to him and that the former had asked him to marry PW-1. Thereafter, he got well acquainted with PW-1 (*"meri aur Victim 'M' ki acchi jaan pehchan hogayi"*). PW-1 was 18 years old. He took permission from PW-1's mother to marry the latter and thereafter married her at Kalkaji Mandir. Later on, A-1 told him that Dalip was PW-1's boyfriend. He also saw a letter written in Bengali in the possession of PW-1. He does not know Bengali and so he asked someone else to read it for him. He was told that the letter had been written by Dalip to PW-1 asking her to elope after taking her jewellery. As PW-1 was living with him as his wife, he did have physical



relations with her.

7. After questioning the accused persons under Section 313 Cr.P.C, compliance of Section 232 Cr.P.C was mandatory. In the case on hand, no hearing as contemplated under Section 232 Cr.P.C is seen made by the trial court. However, non-compliance of the said provision does not, *ipso facto* vitiate the proceedings, unless omission to comply with the same is shown to have resulted in serious and substantial prejudice to the accused (See **Moidu K. vs. State of Kerala, 2009 (3)KHC 89 : 2009 SCC OnLine Ker 2888**). Here, the accused persons have no case that non-compliance of Section 232 Cr.P.C has caused any prejudice to him.

8. DW-1 was examined on behalf of A-1 and A-2.

9. On consideration of the oral and documentary evidence and after hearing both sides, the trial court vide the impugned judgment dated 28.11.2023, held A-1 guilty of the offence punishable under Sections 370 and 323 IPC; A-2 of the offence



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punishable under Section 370 IPC and A-3 of the offences punishable under Sections 376(2)(i), 323, 370A IPC and Section 6 of the PoCSO Act. Accordingly, A-1 has been sentenced to rigorous imprisonment for 15 years as well as fine for the offence punishable under Section 370 IPC and six months' rigorous imprisonment and fine under Section 323 IPC. A-2 has been sentenced to rigorous imprisonment for 18 years and fine for the offence punishable under Section 370 IPC. A-3 has been sentenced to rigorous imprisonment for 20 years and fine for the offence punishable under Section 6 of the PoCSO Act; rigorous imprisonment for 6 years and fine for the offence punishable under Section 370A IPC and rigorous imprisonment for 6 months and fine for the offence punishable under Section 323 IPC. The sentences have been directed to run concurrently. Aggrieved, the accused persons have preferred these appeals.

10. The only point that arises for consideration in this appeal is whether the conviction entered and sentence passed against the



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appellants/accused persons by the trial court are sustainable or not.

11. It was submitted by the learned counsel for A-1 that the prosecution has been unable to establish any of the ingredients of Section 370 IPC against him. No site plan or mahazar has been prepared relating to the house/room in which A-1 is alleged to have harboured PW-1. According to PW-1, the house of A-1 and A-2 is at Sangam Vihar. However, the arrest memo of A-1 shows otherwise. There are no materials on record to show that A-1 had the knowledge of the transaction or that he had harboured PW-1 or that she was a minor at the time of the alleged incident. The trial court disbelieved the prosecution case that PW-1 had been sold for a consideration of ₹25,000 on the ground that the testimony of PW-1 on the said aspect was only hearsay. It has also not been established that A-1 had played any active role in the exploitation of PW-1 by any means. The prosecution case of kidnapping has also been disbelieved by the trial court. A lady whom the victim referred to as '*Bengali Bhabhi*', a crucial witness was never



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examined. In the light of such unsatisfactory evidence, the trial court ought not to have found the accused guilty of the offence alleged against him. Further, reference was made to the dictum in **Manoj v. State of M.P., (2023) 2 SCC 353**, to canvass the point that the sentence imposed on A-1 is disproportionate to the offences alleged to have been committed by him.

11.1. As far as the case against A-2 is concerned, it was submitted that the entire case of the prosecution is based on the sole testimony of PW-1. The prosecution case of sale of PW-1 by A-1 and A-2 has been disbelieved by the trial court. The prosecution failed to examine crucial witnesses like the '*Bengali lady*' who is alleged to have helped PW-1 to contact her mother as well as the friend of PW-1 to whom Dalip (the absconding accused) had entrusted the school bag of PW-1, when he is alleged to have enticed and taken away PW-1 on her way back home from tuition. Further, the defence version of A-1 and A-2 that they had merely attended the wedding of PW-1 and A-3, on the invitation of



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Dalip, has been established by the testimony of DW-1. Lastly, it was also pointed out that the sentence imposed on A-2 is quite disproportionate. A-2 is a 59 year old lady with young children. Her conduct has been quite good during the crime stage, trial as well as after conviction. Therefore, a lenient view may be taken.

11.2. On behalf of A-3, it was submitted that he was under the impression that PW-1 was above 18 years old. The marriage was solemnized with the knowledge and consent of PW-1's mother. PW-1 was in constant touch over telephone with her mother during the entire duration of her stay with A-3. It was also submitted that PW-3 is not a reliable witness as her testimony is inconsistent, full of discrepancies, contradictions and material improvement at different stages of the proceedings and trial. It was also pointed out that there is delay of more than 6 months in the crime being registered. Further, before the amendment of Section 6 of the PoCSO Act with effect from 16.08.2019, the offence was punishable with rigorous imprisonment for a term not less than 10



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years but which could extend to imprisonment for life and fine. The incident is alleged to have taken place in the year 2013. Therefore, the trial court went wrong in sentencing A-3 to 20 years of imprisonment. A-3 has already undergone incarceration for more than 10 years. Hence, it was submitted that the sentence imposed on A-3 may be modified and reduced to the minimum sentence of 10 years rigorous imprisonment.

12. *Per contra*, it was submitted by the learned Public Prosecutor that the ingredients of Section 370 IPC have been clearly made out. The clauses in the section are disjunctive, being connected by the word 'or'. It was therefore sufficient for the prosecution to establish the fulfilment of any one of the statutory conditions, which has been satisfactorily and successfully done in the case on hand. The findings arrived at by the Court are based on a proper appreciation of the evidence on record and suffer from no perversity or illegality calling for an interference by this Court.

13. The learned *Amicus Curiae* for the victim also made



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submissions. According to him, the absconding accused Dalip, was staying at the house of A-1 and A-2 and sexually exploiting PW-1 in the house. PW-1 deposed that A-1 had also attempted to assault her. However, his attempts failed as A-2 was present at the home at the said time. The testimony of PW-1 clearly establishes the prosecution case and hence there is no ground for interference by this Court.

14. Heard both sides.

15. I shall briefly refer to the evidence relied on by the prosecution in support of the case. The gist of the case of PW-1 in Exhibit PW-3/B the FIS, is as follows:- She is acquainted with Dalip who used to visit her village and her house. One day in August, 2013 while she was returning from school/tuition, she met Dalip on the way. He stopped her and asked her to accompany him to Delhi to visit his sister and that they would return home after sightseeing in Delhi for about 5 to 6 days. When she refused, Dalip grabbed her hand and pressurized her to join him. She became



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sacred/frightened. Dalip took her school bag and handed it over to one of her friends for entrusting it home. Dalip forcibly took her to the Namkhana railway station from where he brought her to Howrah railway station by train and bus. From Howrah, Dalip brought her to Delhi by train. At the Delhi Railway Station, a woman named Kajal (A-2) and her husband Gangaram (A-1) whose names she came to know later were there to receive them. From there, they took her to Tughlakabad, where she was kept in a house in Gali No.24 for about 20 to 22 days, during which time Dalip repeatedly raped her. She told Kajal several times about this. But Kajal asked her to keep quiet and that she would scold Dalip. During this time, both Kajal and Dalip kept compelling her to get married, which she refused and then they would threaten and intimidate her. One day, Dalip and Kajal asked her to wear a saree to go to the temple and told her that they would get her married off. When she refused, they started beating her and brought her to Kalkaji temple, at which place Dalip, Kajal (A-2) and Gangaram



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(A-1) forcefully married her off to a person whose name she later came to know as Pummy (A-3). Pummy forcibly took her to his house at Sangam Vihar, where he kept her against her will and raped her several times. During Durga Pooja, she asked Pummy to allow her to return home in West Bengal. He told her that he had purchased her from Kajal (A-2) for ₹ 25,000/- out of which he had already paid ₹ 20,000/-. Whenever she expressed her desire to return home, Pummy (A-3) used to call Kajal (A-2) and have her beaten up. Dalip, Kajal, Gangaram and Pummy have together committed these atrocities against her.

15.1. In the 164 statement of PW-1 marked as Exhibit PW-4/A, she reiterates her case in the FIS. She also stated that at the wedding, A-3's paternal aunt (bua) and daughter, A-1, A-2 and A-3's friends were present. A-3's aunt had allowed her to talk to her mother occasionally. She informed her parents that she was staying in Sangam Vihar, pursuant to which her parents informed the police. She also stated that A-3 and Dalip used to beat her up and



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make her do all work. She further stated that when Dalip first established physical relationship with her, she had pain and that he used to rape her even while she was menstruating. She stated that A-3 would also have sexual intercourse with her despite her resistance.

16. Though it was argued on behalf of the accused persons that PW-1 is not a reliable witness as her testimony is full of contradictions and inconsistencies, no contradictions have been brought out in compliance with the procedure contemplated under Section 145 of the Evidence Act. Therefore, the accused persons cannot take advantage of the same.

17. As far as the age of PW-1 is concerned, the same stands proved by PW-18/A, the certificate of birth, which shows her date of birth to be 27.11.1998. The incident in this case took place on 13.08.2013 and thereafter. Therefore, PW-1 was 15 years old at the time of the incident. Hence, her consent is immaterial.

18. It is true, as pointed out by the learned counsel for the



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accused persons, that PW-1 is never seen to have raised any alarm when Dalip, the absconding accused, is alleged to have kidnapped her. Dalip brought her by train and bus to Delhi after travelling a long distance from West Bengal. PW-1's testimony that she never raised any alarm as she was threatened/scared is not convincing. Further, her testimony regarding her acquaintance with Dalip is also not consistent. In the FIS, she has stated that she knew Dalip as he used to visit her house. But in her Section 164 Cr.P.C statement, PW-1 says that Dalip was her friend. However, in the testimony before the Court, she deposed that she does not know Dalip, but she has met him several times on her way to tuition. PW-2, the mother of PW-1, deposed that Dalip has never visited her house. Therefore there are discrepancies in the testimony of PW-1 regarding her acquaintance with Dalip. But that would not help the accused persons in any way/ manner because even if it is assumed that PW-1 went along with Dalip on her own will or wish, the same is immaterial as PW-1 was a minor at the time of



the incident and therefore her consent is immaterial.

19. According to PW-1 when she and Dalip reached the Delhi railway station, A-1 and A-2 were present to receive them and that all of them took her to the house of A-1 and A-2, where Dalip repeatedly raped her despite her resistance. Though she complained to A-2 about Dalip, the latter never intervened. Thereafter, they forcibly got her married off to A-3 against her will. These aspects of PW1's testimony have not been discredited in any way. The stand of A-1 and A-2 is that they merely attended the marriage of PW-1 to A-3 as guests on the invitation of Dalip. To prove their defence, DW-1 was examined who in the box supports their case. But this version seems highly improbable as the testimony of PW-1 to the effect that A-1 and A-2 were there to receive her and Dalip at the railway station; that they took her to their house and thereafter the incidents of sexual abuse has not been discredited in anyway. The suggestion seen put on behalf of A-1 to A-2 to PW-1 during her cross-examination is that it was



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with the intention of making undue profit, she has falsely implicated A1 and A-2, which of course was denied by her. On going through the testimony of PW-1 along with her FIS and the 164 statement, I do not find any reason(s) to disbelieve her version except her version regarding her acquaintance with the absconding accused, Dalip. She seems to have been in a relationship with Dalip and appears to have joined him on her own free will when an offer was made by him to visit Delhi for sightseeing.

20. As far as A-3 is concerned, he admits his marriage with PW-1. His version is that he was under the bonafide belief that PW-1 was above 18 years of age. A-3 has also a case that he had taken permission from the mother of PW-1 before the marriage. This apparently is false because when PW-2, the mother, was examined, there is no such case for A-3. Not even a suggestion was put to PW2 that the marriage of PW-1 was solemnized after seeking the former's permission. In fact, during the examination of PW-2, he had never such a case. A-3 admits that he had sexual



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relationship with PW-1. However, his explanation is that he had married PW-1 and therefore as her husband, he did have sexual relations with her.

21. Now the question is, based on the aforesaid evidence, can the conviction and sentence of the trial court be sustained?

22. As far as offence under Section 6 of the PoCSO Act is concerned the same is certainly made out because PW-1 was a minor at the time of incident. PW-1 speaks of the penetrative sexual assault on her by A-3 pursuant to the alleged marriage. A-3 also admits to have had sexual relationship with PW-1. PW-1 also deposed that A-3 used to beat her when she resisted. She also spoke of A-2 beating her up. It was submitted by the learned counsel for the accused persons that there no materials or evidence to show that any injury had been caused to the PW-1, pursuant to the accused beating her up. The offence alleged is under Section 323 IPC. Hurt as defined under Section 319 IPC includes bodily pain also. PW-1 deposed that pain was caused to her when A-2 and



A-3 had beaten her. Therefore, the offence punishable under Section 323 IPC is clearly made out. Hence, the sentence awarded to A-2 and A-3 for the offence punishable under Section 323 IPC is confirmed.

23. Section 370 IPC reads thus:

“70. Trafficking of person.—(1) Whoever, for the purpose of exploitation, (a) recruits, (b) transports,(c) harbours, (d) transfers, or (e) receives, a person or persons, by—

First.—using threats, or

Secondly.—using force, or any other form of coercion, or

Thirdly.—by abduction, or

Fourthly.—by practising fraud, or deception, or

Fifthly.—by abuse of power, or

Sixthly.—by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.

Explanation 1.—The expression “exploitation” shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.

Explanation 2.—The consent of the victim is immaterial in



determination of the offence of trafficking.

(2) Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.

(3) Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

(4) Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

(5) Where the offence involves the trafficking of more than one minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years, but which may extend to

imprisonment for life, and shall also be liable to fine.

(6) If a person is convicted of the offence of trafficking of minor on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

(7) When a public servant or a police officer is involved in the trafficking of any person then, such public servant or police officer shall be punished with imprisonment for life, which shall



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mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine."

(Emphasis supplied)

24. It is true that the prosecution case of sale of PW-1 by Dalip, A-1 and A-2 to A-3 for an amount of ₹ 25,000/- has been disbelieved by the trial court. But PW-1's testimony that A-1 and A-2 were at the railway station to receive them when she along with Dalip arrived at the station has not been discredited. A-1 and A-2 have no explanation for their presence at the railway station and as to why they went to receive PW-1 and Dalip. Their version is that Dalip, an acquaintance, had invited them to his sister's wedding and so they had merely attended the wedding as guests. If that be so, why were they present at the railway station to receive Dalip and PW-1, who are supposed to be complete strangers to them. Neither A-1 nor A-2 has a case that either PW-1 or Dalip is related to them. PW-1 deposed that during her stay in the house of A-1 and A-2, Dalip had raped her several times. PW-1 also testified that she had complained about the acts of Dalip to A-2.



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However, A-2 never reacted or responded, but advised her to keep quiet. According to PW-1, it was A-2 who had dressed her up for the wedding. These aspects in the testimony of PW-1 have also not been discredited. PW-1 also deposed that A-1 had also tried to sexually assault her, but his attempts failed as A-2 was present. No explanation has been furnished by A-1 or A-2 as to why they brought Dalip and PW-1 to their residence and permitted them to reside therein. In light of the testimony of PW-1 which has not been discredited and in the absence of any explanation from A-1 and A-2 as to their presence at the railway station and regarding the events that transpired thereafter, it can only be said that they had received PW-1 from Dalip by practicing fraud/deception for the purpose of exploitation. Exploitation as per Explanation 1 includes any act of physical exploitation or any form of sexual exploitation.

25. PW-1 after being taken to the house of A-1 and A-2, has spoken about the sexual assault by Dalip. Despite A-2 being



informed of the same, she never took any action. Thereafter A-1 and A-2 along with Dalip is seen to have married off PW-1 to A-3. Therefore, the ingredients of Section 370 IPC stand proved against A-1 and A-2. Hence, the conviction of A-1 and A-2 for the offence under Section 370 IPC is confirmed.

26. Now coming to Section 370-A IPC which reads:-

“(1) Whoever, knowingly or having reason to believe that a minor has been trafficked, engages such minor for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than five years, but which may extend to seven years, and shall also be liable to fine.

“(2) Whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine.”

(Emphasis supplied)

27. As noticed earlier A-3 admits to have married PW-1 and had sexual intercourse with her. A-3 has no explanation for the absence of the parents of PW-1 at the time of the marriage. He has no case that the parents of PW-1 or any of her near and dear ones



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were present at the time of the marriage. He has also no case that PW-1 is an orphan or that he was under the impression that she was an orphan. In normal circumstances, the parents and near and dear ones of the girl would certainly have been present for the marriage. But here, none were present. Therefore, the question certainly arises as to why the parents as well as the near-dear ones were absent at the time of the wedding. Though A-3 takes up a defence that he had married PW-1 with the consent of her mother, there is absolutely no materials on record to substantiate the same. On the other hand, A-3 does not even have such a case when PW-2 was in the box. Therefore, his defence case of taking permission from PW-2 seems to be an afterthought. A-3 further admits that it was A-1 who had asked him to marry PW-1. What was the compelling circumstances to solemnize the marriage in the absence of the parents of PW-1 has not been explained. Therefore, in such circumstances it can only be held that A-3 must certainly have known or had reasons to believe that PW-1 had been trafficked.



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28. It is true as pointed out by the learned counsel for A-1 that the site plan/mahazar of the house/room in which PW-1 is alleged to have been harboured by A-1 and A-2 and sexually assaulted by Dalip has not been produced before the Court. However, in the light of the materials before the Court, the same is immaterial because the testimony of PW-1 that she was taken to the residence of A-1 and A-2 and married off to A-3, pursuant to which the latter had sexual intercourse with her, which fact is admitted by A-3, proves the case.

29. Now coming to the sentence that has been imposed on the accused persons. As stated earlier, A-1 and A-2 have been sentenced to a period of 18 years and 15 years respectively for the offence punishable under Section 370 IPC. It was submitted on behalf of accused persons that the sentence imposed by the trial court is disproportionate. The trial court has not given any reasons as to why more than the minimum sentence has been awarded. Therefore, it was submitted that trial court went wrong in imposing



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such harsh sentence and in support of the argument reference was made to the dictum in **Manoj** (*supra*).

30. The trial court has not given any reasons as to why A-1 was given a sentence of 18 years and A-2, 15 years, for the same offence. As PW-1 was a minor at the time of the incident, as per sub-section (4) to Section 370 IPC, the minimum sentence to be imposed is 10 years, but the same may extend to life. Taking into account the role played by A-1 and A-2 in the crime, I find that a period of 13 years' rigorous imprisonment each for A-1 and A-2 would be the proper sentence for the offence punishable under Section 370-IPC.

31. A-3 has been awarded rigorous imprisonment of 6 years for the offence punishable under Section 370-A IPC and to 20 years for the offence punishable under Section 6 of the PoCSO Act. The incident in this case took place on 13.08.2013. Section 6 of the PoCSO Act was amended with effect from 16.08.2019 as per which the minimum sentence is 20 years, but the same may



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extend to imprisonment for life, which means imprisonment for the remainder of the natural life of the person or death. Before the amendment, the offence under Section 6 was punishable with rigorous imprisonment for a term not less than 10 years, which may extend to life. As the incident in this case took place before 16.08.2019, the trial court went wrong in applying the amended provisions of Section 6 as far as A-3 is concerned. Therefore, the sentence of 20 years is liable to be modified and hence the same is modified to 13 years.

32. The conviction and sentence of A-3 for the offences under Section 370-A and 323 IPC is confirmed.

33. In the result, the appeals are partly allowed. The conviction of A-1 for the offence punishable under Section 370 IPC; conviction of A-2 for the offence punishable under Sections 323 and 370 IPC and conviction of A-3 for the offences punishable under Sections 323, 370A, 376(2)(i) IPC and Section 6 of the PoCSO Act is confirmed. However, the sentence of rigorous



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imprisonment awarded to A-1 and A-2 for the offence punishable under Section 370 IPC is modified to 13 years. The sentence of A-3 for the offence punishable under Section 6 of the PoCSO Act is modified to 13 years.

34. Applications, if any, pending shall stand closed. The copies of this judgment be placed in the connected matters.

35. A copy of this judgment shall also be communicated to Jail Superintendent for information and necessary compliance.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

JANUARY 19, 2026

Mj/ER